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# A Reply

TO

# MR. BURT'S 'WAKEFIELD FIGURES

IN RELATION TO

# CONVICT DISCIPLINE'

BY

E. B. WHEATLEY BALME

*ONE OF THE VISITING JUSTICES OF THE WAKEFIELD PRISON*

LONDON
SIMPKIN, MARSHALL, AND CO.
STATIONERS'-HALL COURT
1863

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# REPLY TO MR. BURT.

AS one of the Visiting Justices of the Wakefield Prison who took part in the production of a pamphlet entitled, 'Observations on the Treatment of Convicts,' I think it right to make a few statements with respect to that publication.

We had long lamented the sad results of convict management in England, as they were constantly pressing themselves upon our notice at Wakefield, but almost despaired of a remedy. A visit to Ireland led us to believe, that the difficulties in the way of improvement, were not so insuperable as they had appeared. On our return, we were induced to enquire further into the results in England; and the more we enquired, the worse they appeared to be. At the same time, we found it alleged by the highest authority, that English convict management was producing excellent results. This brought the matter to an issue in our minds. If no improvement was believed to be needed, none, certainly, would be effected. We, therefore, felt constrained to do what in us lay, towards improvement, by making known the results of the present system, so far as we could trace them, and indicating what seemed, in our humble judgement, to be remedies for the evils.

For the gentlemen at the head of the English convict department, personally, we entertained the highest respect. With one of them I am myself connected by ties of affinity; with the Chairman, our official intercourse had always been of the most friendly character; but we believed them to be acting under mistaken impressions on a question of serious practical importance to the public safety; and we saw no other means of contributing to a better state of things, than an appeal to public opinion.

Before, however, we went forth to the public, we placed the proofs of our pamphlet, at the earliest possible moment, in the



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hands of Sir Joshua Jebb. At his urgent personal request, that portion of the pamphlet which questions the completeness of some of the returns published by him, and which was to have been read before the Social Science Congress in London, was withdrawn on that occasion, and the publication was delayed for two or three weeks; but no attempt was made by him to show any error in our statements or reasoning, and therefore the pamphlet was issued.

About two months afterwards, we received a courteous letter from the Home Office, stating that on three or four points referred to in our pamphlet, 'the information we had received was, to a certain extent, incorrect.' It is a curious fact that, in each one of those cases, that information had come to us directly from Sir Joshua Jebb.*

Shortly after this, a second edition of our pamphlet was called for; but, a vague rumour having reached us, that a crushing reply to it, was being prepared under official inspiration, the second edition was delayed, in order that we might therein acknowledge our errors, if convicted, or set up our defence, if we had one. We waited, trembling, for some months, but no reply appeared, and our second edition ventured forth; when lo! one fine morning, my nerves were startled by, not one but, a pair of pamphlets devoted to the utter demolition of ours. The one is called, 'Irish Fallacies and English Facts,' by Scrutator; the other, 'Irish Facts and Wakefield Figures,' by Mr. Burt—titles whose alliterative likeness, with delicate shades of difference, are singularly suggestive of close relationship and common inspiration ;†

Facies non . . . . una
Nec diversa tamen, qualem decet esse sororum.

* One of these points was the reference, in the Postscript to our first edition—omitted in the second—to the statement made by Sir J. Jebb before the Social Science meeting in 1862, to the effect that the Chief Commissioner of the Metropolitan Police had reported to the Home Secretary, that 'of about 300 known to the police in their several districts as ticket-of-leave men, about half' were pursuing criminal courses. The latter informed us that 'the number of actual ticket-of-leave holders then known to the police was 39, of whom 21 were associating with thieves or leading dishonest lives.' That Sir J. Jebb spoke of the number as 'about 300,' I can positively aver, for I was present, and wrote down the figures as he spoke, and have the note now before me.

† The appointment of Mr. Burt to a chaplaincy in the convict service, occurring simultaneously with the birth of the twin pamphlets, is another indication of relationship, or a curious instance of 'undesigned coincidences.'

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In each pamphlet the idiosyncracy of the author is well preserved. The awful form of Scrutator looms through pseudonymous mystery, with a blue-book-like and official air. Mr. Burt, in proper person, skirmishes to the front, under cover of Scrutator's heavy guns. These guns, however, seem to have been loaded with blank cartridge, for, when the smoke is cleared away, there is very little to be found sufficiently solid and tangible to require, or even to admit of, reply. Mr. Burt condescends to particulars. He manipulates figures with such dexterity, that it requires very close watching to detect which thimble the pea is under; but his objections to our figures, are definite and tangible, and I am very glad to meet him on such ground.

The main part of his argument is directed to turn the tables upon us, by showing what very bad people we all are, who have the misfortune to live in the north, as compared with the virtuous south; that the West Riding throws up the *crême de la crême* of iniquity, and that the Visiting Justices at Wakefield, are the worst of all. To us especially, he reads a severe lecture, taking for his text the proverb—'They who live in glass houses should not throw stones.' Now, I admit, that, if an attempt to ascertain the results of prison discipline, by enquiring into the number of recommittals which follow it, be properly likened to that naughty trick—throwing stones, we are doubly guilty; though not quite in the sense of the proverb; for we rashly and insanely smashed our own windows, and left ourselves open to the keen blasts of adverse criticism, several years before we ventured to aim a pebble at those crystal palaces—the convict prisons. Four years ago, at the Social Science Congress at Bradford, Mr. Shepherd, the Governor of Wakefield Prison, with the cognizance of several of the Visiting Justices, read a paper calling special attention to the statistics of recommitments to that prison. Again, in 1862, the same energetic Governor read a paper, on a similar occasion, in London, on 'The Necessity of Reformatory Discipline in County and Local Prisons,' enforcing his argument for the need of improvement in such prisons, by statistics of recommitments to our own prison. Yet now, the *gravamen* of Mr. Burt's charge against us, is, that 'we, remaining wholly unconcerned at the 'recommitments to our own prison, unless wholly ignorant of them,' profanely presumed to enquire into the recommitments relating to the convict prisons.

The truth is, that, so far from our being unconcerned

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at the recommitments to our own prison, it is owing to the very fact, that we have been so painfully concerned by them, and above all, to the fact that the Governor of our prison has had his attention so specially directed to them, that Mr. Burt is enabled to adduce his cardinal argument against the inferences drawn in our pamphlet with respect to recommitments from the convict prisons. 'The reconvictions of county prisoners at Wakefield,' he triumphantly says, 'are 50 per cent. greater than the average rate of England and Wales.' This statement he repeats several times, but judiciously avoids committing himself by giving any authority for it, as for several other of his most important assertions. I can only suppose that he has gone for the information to the Judicial Statistics. He states that the 'reconvictions since 1856 have ranged throughout England and Wales from 27 to 30 per cent. of the commitments.' But he could only obtain those percentages by including in the numbers on which the percentage was taken, 'debtors and persons under civil process.' Now these are the persons among whom recommitments are least to be expected. For instance, the Whitecross-street City and Debtors' Prison, in London, had 2,340 such persons in 1860, and 2,291 in 1861, without having a single recommitment in either year. But no such persons are committed to Wakefield. In order therefore to compare the recommitments at Wakefield with those throughout the kingdom, 'debtors, &c.,' should be excluded, as is done by the editor of the Judicial Statistics in his Explanatory Report, and by Mr. Burt himself in the tables given in his Appendix. This being done, the number of persons known to have been previously committed, in the local prisons throughout England and Wales, ranged, during the six years ending with 1861, from 30 to 34 per cent. on the whole number committed; while the number known at Wakefield ranged from 39 to 45 per cent., a difference of about 10 per cent. instead of 50 per cent. as asserted by Mr. Burt.

The tables on the subject in the Judicial Statistics are very properly headed, 'Number of persons committed, &c., and, *so far as is known*, the number of their previous commitments.' Now, the extent to which those previous commitments are *known*, depends very much on the pains taken to ascertain them. Where a person is recommitted to the same prison to which he had been previously committed, within a short time, there is little difficulty in ascertaining the fact. But where

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some time has elapsed since that previous commitment, and, much more, where the previous commitment was to another prison, it becomes often a matter far from easy to ascertain, and requiring much labour and correspondence. The able editor of the Judicial Statistics observes in his Explanatory Report for 1859 (p. xxv.), 'It would be erroneous, however, to assume that 27·5 per cent. approximates to the proportion of the recommittals. On liberation from prison, the thief who desires to reform and live honestly would leave his old haunts and associates, and the trace of him would consequently be lost; while the thief who returns to them would be known to the police, and recorded as a relapsed criminal. But as many change their haunts and names only to commence a new career of crime upon new ground, it cannot be supposed that all who are lost sight of are reformed. *The appearance of the confirmed thief is well known to the experienced policeman and gaoler, but he cannot be so recorded, as his personal identity is lost.*

The returns of recommittals to any prison, present, therefore, a record of the real number recommitted, which is more or less imperfect, as less or more pains are taken to trace out the identity in doubtful cases; and as the officers are less or more experienced, numerous, and permanent—for when officers are few or frequently changed, identification is more difficult. Now the Governor at Wakefield has been there between thirty and forty years, and has long had his attention specially directed to the recommitments, as his published papers show. The returns, therefore, of recommitments of county prisoners there, are necessarily greater than in prisons where the attention of the governors has been less specially directed to that point, and where the means of identification are less. I doubt not that there are many prisons where equal pains are taken; but, also, that there are many where such is not the case; and these last reduce the general average, which Mr. Burt takes as his standard of comparison, but which Mr. Redgrave shows to be so imperfect.

The local circumstances of the Wakefield prison, also, afford peculiar facilities for the recognition of old offenders. There is, I believe, no prison in Great Britain, that receives prisoners at once from so large a population and so large an area, viz., from 1,300,000 people, spread over an area more than 90 miles long and than 40 wide. Lancashire, the only county which exceeds the West Riding in combined area and population, has three large county Houses of Correction, while

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the West Riding, with the exception of the very small Liberty of Ripon, has but one. The great Metropolitan prisons are appropriated to particular classes of offenders, and the great borough prisons to offenders within the limits of small areas; consequently, the same person, when coming under a different category in the former case, or passing over a boundary which is soon reached, in either case, is committed to a different prison, and more easily escapes recognition. Whereas, an offender, from whatever town or other part of the West Riding, or in whatever class (except that of debtors) he, or she, may come, is committed to Wakefield. The only exceptions are the insignificant one of Ripon, just mentioned, where the prison can only hold 18, and the large borough of Leeds. Between the prisons at Leeds and Wakefield, officers are constantly interchanging visits for the purpose of recognising old offenders, who may have passed into, or out of, the limits of the borough. Under these circumstances, it is not surprising that the proportion of old offenders recognised as such, among county prisoners at Wakefield, should be above the average. But it by no means necessarily follows, that the proportion really existing, is above the average; and I shall presently show reasons for believing it to be otherwise.

For the recommitments of county prisoners at Wakefield, however, Mr. Burt has another and very obvious explanation. They are due to 'a state of management at Wakefield, very much less instead of more efficient than at other prisons.' 'There can be no doubt,' he adds, 'of the ability of the Governor; but the ruling principle of the administration contravenes the first principles of penal service.' Now I am not at all prepared to argue that the discipline at Wakefield, is efficient in preventing recommitments. On the contrary, the Governor, with our sanction, has taken much pains to show that it is not efficient; but whether in a greater or less degree than that of 'other' county prisons, we have not enquired. We, at least, have not found out how to cure 'persistent criminality' under sentences, the majority of which do not exceed a few months.

But the question at issue between us and Mr. Burt, is this,—Can cause be shown, why prisoners who have passed through the *convict* prisons, should be recommitted to the Wakefield prison, in a proportion above the general average of Great Britain? Mr. Burt undertakes to prove the affirmative; and his main, I may say his only real, argument is founded on a

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supposition, that the recommitments of county prisoners at Wakefield, are above the average rate. But if the supposed excess of recommitments is due to the defective discipline of that prison, it supplies no reason why persons who have been subjected, *not to that defective discipline, but to the discipline of the convict prisons*, should be afterwards committed to that prison in a proportion above the general average; for persons sentenced from the West Riding to penal servitude, with very rare exceptions, do not undergo their sentences at Wakefield, but in other convict prisons.

Mr. Burt probably saw that his fling at Wakefield management endangers his argument against 'Wakefield figures.' He therefore suddenly shifts his ground and says, 'I will not affect, however, to believe that the inefficiency of the discipline at Wakefield is the sole cause of this excess in the rate of reconvictions to that prison.' That is, having 'affected to believe' one thing in order to serve an incidental purpose, he then 'affects to believe' another in order to serve his main argument. Which affectation of belief are we to attach most credit to?

But Mr. Burt is prepared for all contingencies. '*Whatever* may be the cause of this *enormous* excess (10 per cent.) in the rate of reconvictions in the West Riding, it discloses the untrustworthiness of their (the four justices') pamphlet.' Even supposing it, then, to be owing to our having taken special pains to ascertain the truth, it still stamps us as unworthy of belief. Our case is hard.

But hear we still, stern Nemesis' doom, 'the reconvictions are the test by which the four justices have measured the convict service, and they must be content to be measured by it themselves.' We did measure ourselves by that test long before Mr. Burt's invitation; but if he had read other parts of our pamphlet, as carefully as those which he thought capable of being turned to his purpose, he would have seen, that we made great allowance in applying, to the convict prisons, that test of reconvictions in the sense in which he here uses the term, viz., as represented by the *proportion* of the prisoners in custody at any one time, who are known to have been previously committed. We expressly pointed out that an increase in the *proportion* of recommittals, so calculated, does not necessarily imply a defective system. We observed that there are certain 'incorrigibles' who are sure to return to prison under any system, and we added (1st

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Edit. p. vii., second edit. p. iv.), that 'under a good system of penal discipline which shall reform the majority of those who have committed crime, and deter others from committing it, and so lessen the whole number of criminals, and under a good system of police which shall ensure the detection of those who do commit crime, the *proportion* formed by the "incorrigibles" to the so diminished whole number of criminals, will necessarily increase.' But, we pointed out that the increase in the number of returned convicts at Wakefield, was not 'merely *proportionate* but absolute,' for while that number was largely increased, the number who *became* convicts was scarcely at all diminished. Mr. Burt, in dealing with this part of the subject, has reprinted *part* of our table, giving *only* the percentages. He very cunningly omits the absolute numbers, or any reference to the qualification above cited, and argues as if our own case rested on the *proportion*, which we had expressly disclaimed.

It is very notable that he speaks of an increase of from 6·9 per cent. to 13·1 per cent. in the proportion of returned *convicts*, as a difference of 'about 6 per cent;' but in speaking of the reconvictions among *county prisoners* at Wakefield, he calls the difference between 27 per cent. and 40 per cent. an 'enormous excess' of 50 per cent. In the latter case he takes percentage upon percentage. If he had applied the same method in the former case, his 6 per cent. would have been changed to about 90 per cent. Such and so evenhanded is Mr. Burt's manipulation of 'Wakefield figures.'

It was certainly the increased number of returned convicts committed to Wakefield, and their very bad characters, which drew our attention to the subject, and in that point of view we spoke of it; but we did not make the proportion borne by the reconvicted men to the number in custody at one time, the measure of the convict service.

Nor did we *initiate* the measurement of that service by reconvictions at all. It was Sir Joshua Jebb who claimed, that the convict service should be measured by reconvictions, in that which is, no doubt, the proper sense, viz., the proportion of the prisoners of a given class discharged, who again return to prison. At the beginning of 1862, he published his Memorandum for 1860, in which he gave the number of convicts discharged on ticket-of-leave, and the number of these who had returned to the convict prisons by reconviction, or revoked license; showing a proportion of about 20 per cent., and appealing to that proportion as a proof

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of the 'great success' of the system administered by him. We did not doubt the fitness of the standard thus applied, but we believed the returns on which it was based to be incomplete, because we knew that criminals often escape identification.

We are not the only persons—I doubt whether we were the first—who publicly questioned the completeness of those returns. Their completeness is questioned even by the Prison Matron, whose work is instinct with feminine tenderness towards all, and with especial reverence towards the Directors, to one of whom it is dedicated. She says ('Female Life in Prison,' vol. ii. p. 234, second edit.), 'From a tabular statement carefully prepared by Major-General Sir Joshua Jebb, K.C.B., Chairman of the Directors, we are enabled to perceive the progress of the ticket-of-leave system, against which so much outcry has been raised.' She then gives an epitome of the return, and adds, 'This marks progress in the right direction, and shows that the percentage of returns is not a large one after all.' But then, she gently propounds this query, evidently suggested by practical experience—'Still, it is fair to ask the question, if the women who have been apprehended for fresh offences *under different names*, and *who are sometimes not recognised as old offenders until received by the prison matrons, are finally registered in the chronicle as "returns?"*'

The query applies equally, of course, to men. I have not seen it answered, but unless it can positively be answered in the affirmative, the returns in question must be exceedingly defective. We have found at Wakefield, as Table M in the 2nd edition of our pamphlet shows, that half the number known as returned convicts there, come, now, under assumed names. How easily they may, and how frequently they do, escape recognition, at least till some time after they return to prison, may be illustrated by the following particulars of five cases which occurred recently at Wakefield within little more than a month—instances of what is constantly occurring:—

February 27. One committed *from London*, recognised on his arrival at Wakefield as having been formerly in confinement there as a convict *from Manchester*.

March 18. Two recognised by the Chaplain as old convicts, having been seen by him at Portland, when he was Chaplain there.

March 23. One removed to Chatham, and recognised there by the officers as having been previously a convict.

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March 30. One committed to the West Riding Department, *recognised by the convict officers as having* been formerly a convict.

None of these five were known as returned convicts when they were committed, nor till some time afterwards—one of them not till more than a year after. All would be recorded as convicts for the first time, except the one committed to the West Riding Department, who would not come into Sir Joshua Jebb's return at all, though thus accidentally recognised by officers of the convict department. The Prison Matron's question is therefore most important—Are the records of re-convictions constantly altered from time to time, as persons entered on the list of first sentences to the convict prisons, are subsequently discovered to have been convicts before? I have no more reason than she appears to have had, to think that this has heretofore been done.

It was under the influence of like doubts that we attempted to estimate, roughly, the extent to which the official return might probably be incomplete. When we drew up our estimate we had not the means of instituting a *direct* comparison between a known number of convicts discharged, and the number of these who subsequently returned to the prison at Wakefield. We could only arrive at such a comparison, by taking an average for the rest of Great Britain from the numbers recommitted to Wakefield, and ascertaining what proportion the result thus estimated, bore to the whole number discharged in Great Britain, which we learnt from the official reports.

But we were afterwards able to institute a *direct* comparison between a certain number of convicts, of a given class, discharged, and the number of the same persons subsequently recommitted. We took the names of all the men resident in the West Riding who were sentenced to four years' penal servitude from 1854 to 1856, and found that of these same persons 42 per cent. had been recommitted to prison up to June 1862. These figures were given in the first edition of our pamphlet in Table K, and referred to in a note at p. xviii. But neither of these has Mr. Burt, in his microscopic examination of Wakefield figures, thought fit to notice. They were probably too simple for his skilful manipulation.

We have since pursued this enquiry further. Mr. Burt inveighs against our 'defective police returns.' He complains that we did not take the percentage of those reported as leading 'dishonest or suspicious lives,' on the whole

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number of convicts discharged into the West Riding, which he estimates at 600 or 700; whereas, the police only give positive information as to 244. He thinks, at least he says, 'that there is strong ground for assuming that the 400 not known at all to the police of the West Riding, were, nearly all of them living honestly.' Upon his complaint, I must remark, in passing, that we have no information as to the whole number of convicts discharged into the West Riding. The Directors told us, in their report for 1857, the number of *ticket-of-leave men* discharged into *Yorkshire* up to that time, from whence we might estimate the number of that particular class sent into the West Riding. As to convicts discharged without tickets-of-leave—a large class—they have given us no information whatever. They have sedulously withheld from the police the information which would enable the latter to distinguish between the men discharged with, and those discharged without, tickets-of-leave. We could not, therefore, have made out such a return as Mr. Burt desiderates. We simply asked the police what they knew about any discharged convicts, and gave what they told us.

But we can now gratify Mr. Burt by a police return made out upon his own plan, viz., giving definite information as to what the police know about a definite number of men discharged. We have taken upon us to do, with regard to the same men above referred to, as sentenced in the West Riding, that which the Directors in England take care not to do—we have sent their names to the police of the localities from which they came, and asked what is known to the police about them. The results are given in Table K of our second edition, where they are brought down to December 1862. Mr. Burt demands that, of the 700 he supposes to have been discharged into the West Riding, the 400 unknown, should be added to the 137 known as living honestly, and assumes, therefore, that about 76 per cent. bear that character. The return shows that of all the men of the class included in it, 22·4 per cent. were known to be living honestly; 8·5 per cent. had been lost sight of, whom Mr. Burt may add to the 22·4 per cent.; 10·3 per cent. were known to be living by crime, *besides* 46·5 per cent. actually recommitted to prison,—facts widely divergent from his assumptions.

As to recommittals, we have enquired further, with respect to all, both men and women, who, being residents in the West Riding, were sentenced to three or four years' penal servitude, from 1854 to 1858, whose sentences consequently would expire

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before the end of 1862. Table L in our second edition shows the number of these who had returned to prison up to the last date, viz., 44·5 per cent. of the men, and 50 per cent. of the women. More of these men have been recommitted since December 1862; and on further enquiry, we found that ten of them died *in* the convict prisons, and therefore should not have been included in the number discharged. Making these corrections, we find just 50 per cent., or half the number of both sexes discharged, have been recommitted up to April 1, 1863.

We confined our enquiries to the sentences passed from 1854—1858, and to those of three and four years penal servitude, because few of the sentences passed in later years, or for longer periods, have expired long enough to allow the results to be ascertained.

In one point of view, these short sentences present, as I believe, an unfavourable specimen, and it is in that point of view that we specially referred to these returns in the second edition of our pamphlet, viz., as showing the inefficiency of short sentences either to deter or reform.

But Mr. Burt differs entirely from this view. He condemns the Committee of the House of Commons of 1856, which recommended that sentences should be lengthened; and would have condemned the whole Legislature which adopted their recommendation, and enacted the lengthening of sentences, if it had not had the grace to make the act *permissive*. He commends the judges who 'continued passing the shorter sentences which they had been accustomed to pass under the law of 1853, guided by their own practised sagacity.' He represents the Committee as having been obtained by 'theorists'—an ingenious attempt to transfer that 'bad name' to another 'dog'—and misled by evidence which 'was all one way, the Recorder of Birmingham, and Captain Crofton being influential witnesses.' It is rather news to me to learn that the views of those gentlemen were endorsed by *all* the other witnesses before that Committee; but, if so, they found supporters of great experience and ability, for the following is the list of witnesses in the first Report:—Mr. Waddington, of the Home Office; Mr. Elliot, of the Colonial; Captain O'Brien; Captain Whitty, and Colonel Jebb, of the English Convict Service; Captain Crofton, of the Irish; and Earl Grey. No wonder the Committee were misled, when they had such evidence 'all one way;' and had *not* Mr. Burt to set them right by showing them the advantage of short sentences.

His assault upon this Committee is highly significant. We

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have all heard of the instruction to counsel, 'abuse the plaintiff's attorney.' Was it part of Mr. Burt's instructions to 'abuse' the Committee of 1856, the recommendations of which have been so diligently disregarded by the English Directors? But I humbly hope that, on the present question, he will not be disposed to quarrel with us for taking our returns of reconvictions from those short sentences which he has stamped with his approval.

In another point of view, these sentences should present a favourable specimen; for we can hardly suppose that those who received the shortest sentences were the most hardened class of 'persistent criminals.' I might have appealed with some confidence to Mr. Burt, as to whether the 'practised sagacity' of the judges would not rightly apportion the length of sentence to the real criminality of the offender, could I have flattered myself, that it was not by inadvertence that he included, in his compliment to the venerable sages of the law, those minor judicial functionaries,—the Chairmen of Quarter Sessions, by whom many of these sentences are passed. It is but too true, that the greater part of the sentences referred to in our return, were passed by the Chairmen of the West Riding Sessions, *quorum pars minima fui.* In pointing out the inefficacy of these sentences, we have been guilty of another suicidal smashing of our own windows.

But whether these short sentences present a favourable or an unfavourable specimen, it is certain that they represent a large bulk (in 1861 they constituted 64 per cent.) of all the sentences of penal servitude throughout England.

We return, then, to the real question at issue between us and Mr. Burt,—Is there any special reason why the proportion of relapses after sentence of penal servitude, known at Wakefield, should be believed to be above the general average? He charges us with assuming the rate of relapses to be *uniform* in all parts of the kingdom, and takes much pains to prove, that they are likely to be more numerous in large towns, than among a sparse population. Now we assumed no such thing as uniformity; but we referred to the Judicial Statistics, which showed that the proportion of criminals to population in the West Riding was below the general average, and to Sir Joshua Jebb's Reports, which showed that the number of ticket-of-leave men—the class to which his returns, and therefore our enquiries, for the most part, were limited—who were sent into Yorkshire was considerably below the average; and we inferred that the rate of relapses, as gathered from considerable num-

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bers recommitted, from the West Riding to one department at Wakefield, and from many different localities to the other, might, not unfairly, be taken as representing, not an *uniform*, but at most, an *average* rate, throughout the kingdom.

Mr. Burt does not deign to notice our authorities, or to give any of his own. He asserts that 'there is greater concentration of persistent criminality in the north than in the south,' and would have his readers believe, that this is specially the case in the West Riding. He appends certain tables, two of which I thought, at first sight, were intended to supply the authority of which I was in search, for his assertion. One shows the rate of commitments to the population in the principal towns of England and Wales, and throughout the rest of the kingdom, in 1861; the other is a similar table of reconvictions. The census of 1861 was not out when our pamphlet was published, and I had not seen it. I therefore looked with much interest to these tables, to see how the relative criminality of the West Riding appears under it. But though Mr. Burt gives Middlesex and all England, he vouchsafes no mention of the West Riding, either in the table of commitments or of recommitments, though he dwells so much on the high rate of the latter which he attributes to the West Riding, in the body of his pamphlet. He gives Leeds, which shows a high rate of criminality; and readers, unacquainted with local circumstances, might suppose that Leeds represents the West Riding, being geographically within it. Mr. Burt, however, can hardly be ignorant that Leeds, being a borough having its own gaol and Court of Quarter Sessions, is, with respect to criminal statistics, as distinct from the West Riding as though it were in another county. But he could hardly have ascertained the ratio of commitments, and recommitments, to population at Leeds, without stumbling upon the figures relating to the West Riding, especially as he has so much to say about that wicked locality. Why then does he omit all mention of it in his tables? He shows himself on this, as on another remarkable occasion to which I shall have to refer, well qualified to hold a brief by special retainer, in that he so well knows, when *not* to call a witness. My impertinent curiosity, however, craved satisfaction; I venture to reprint for the information, not of Mr. Burt, who, I doubt not, knows them well, but of any whom it may concern, his own tables, with the simple addition of the figures relating to the West Riding.

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The first of his tables, thus supplemented, shows that, whereas the average rate of commitments to population throughout England and Wales in 1861, was 1 in 173; in the West Riding it was only 1 in 301—a rate not much more than half the general average rate, and much less than the average rate throughout England and Wales when Middlesex and four of the largest towns are deducted, which Mr. Burt shows to be 1 in 210.

The second shows, that whereas the average rate of reconvictions to population for England and Wales is 1 to 517, for the West Riding it is only 1 to 699—a much more favourable ratio, being a little more than the ratio shown by Mr. Burt for all England, when Middlesex and the four largest towns are omitted. One cannot but admire his *discretion*, in not calling a witness that would have turned his 'enormous excess' of reconvictions in the West Riding, into a remarkable deficiency; and would have shown a rate of criminality in the West Riding far below, instead of above, the general average, as he labours to make it appear. The less one says of his fairness, the better.

So much for the special criminality of the West Riding, as measured both by commitments and recommitments.

But, says Mr. Burt, the 'convicts sent to Wakefield are *exclusively* men selected *chiefly* from the northern counties,' where, he is 'inclined to the opinion that there is a greater concentration of persistent criminality, than in the south.' What is the meaning of 'exclusively' qualified by 'chiefly,' I do not understand. The convicts sent to Wakefield are chiefly, but by no means exclusively, from the northern counties.

But if, by the insertion of the word 'exclusively,' Mr. Burt meant to say, or that his readers should suppose, that *all* the convicts from the northern counties, are sent to Wakefield, it would be a great mistake. Yet this is what his argument requires.

Let us suppose, for a moment, that there were any foundation for his theory of special northern depravity. If all the bad borealians came to Wakefield, we might expect to find a larger proportion of returned convicts there; but if as many of them went to other convict prisons, as to Wakefield, the balance would be restored, and there would be no reason why we should expect to find more reconvictions in that prison, than in the others. Now the last is the real state of the case.

Table III. shows the number sentenced in 1861 to penal



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servitude in each of the counties whence any were sent to Wakefield, the number who *were* sent to Wakefield, and the number of these last known as returned convicts. Take Lancashire, the most criminal of the northern counties: 249 convicts were sent from it to Wakefield in 1861; but 295, a larger moiety, were sent to other convict prisons, to raise—if they do raise—the rate of reconvictions in *them*, as much as at Wakefield. But Lancashire only produced just its *proportion* of returned convicts, viz., 30·5 per cent., the average proportion that year being 30·8 per cent. The largest proportion, viz., 8 out of 10, came from Worcestershire, which Mr. Burt will hardly call a northern county; though I regret to observe the readiness with which, in his elevation to Broadmoor, he throws over Birmingham, which has so long profited by his presence, into the wicked north.

He is led to inflict this wrong, regardless of considerations geographical, moral, or personal, by his eagerness to make it appear, that 'Wakefield, receiving only one-fifth of the whole of the convicts, has concentrated into that fifth a large part of the convict element from nine out of eleven of the most criminal populations in the kingdom;' by which he means the eleven great towns which have a population exceeding 100,000. Unhappy Wakefield!—doomed, in Mr. Burt's poetic fancy, to drink in the dregs of criminality, after the purer fluid has been decanted off into worthier vases. Is there no comfort? Let us see.

First, which are the two great towns that even Mr. Burt's geography cannot place in northern counties? London and Bristol. Now the population of London, by the census of 1861, was (I omit hundreds) 2,803,000; and of Bristol, 154,000—together, 2,957,000; while the united population of the nine towns which he calls northern, was 1,954,000—a million less in all the nine northern together than in the two southern; and 849,000 less in all the former, than in *one* of the latter. Mr. Burt dwells much on the tendency of 'concentration' of population in great towns, to increase crime, and on 'the dense population of the north'; but he quietly omits to notice, that this excessive condensation of population in London, must be thrown into the scale of southern criminality, which he would fain represent as kicking the beam.

But even as to the nine towns, let us see how far his assertion, that Wakefield 'has concentrated a *large* part of their convict element,' and his inference that it must be expected

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to have more than an average proportion of returned convicts, are borne out by facts. The following is a list of five of the nine towns which he places in the Wakefield 'convict district' as northern, with the number of convicts received from each in 1861, and the number of these known as returned convicts :—

Received at Wakefield in 1861.

| From | Whole Number of Convicts | Known as Returned Convicts |
|---|---|---|
| Sheffield . . . . . | 8 | 1 |
| Bradford . . . . . | 4 | 0 |
| Birmingham . . . . . | 0 | 0 |
| Wolverhampton . . . . | 0 | 0 |
| Stoke-upon-Trent . . . | 0 | 0 |
| Total from five towns . . . | 12 | 1 |

Of 159 known returned convicts received in that year, these five towns supplied *one*; three of them, not a single convict.

In other years, convicts have been received in comparatively small numbers from these towns, but so they have from all parts of Great Britain. If, then, these towns are to be included in the Wakefield 'convict district,' the whole of Great Britain must be included also; and the theory of special criminality in that district, falls to the ground. If they are excluded, they and their population, amounting to 873,000, are to be thrown into the other scale, leaving, for the Wakefield convict district, a great town population of 1,080,000, out of a total, for the eleven great towns, of 4,911,000, or not much more than one-fifth; and so far corresponding to the proportion of convicts received at Wakefield. The excess above one-fifth is more than counterbalanced by the number of convicts sent *out* of the district to other convict prisons. We have seen that, from Lancashire, which contains the largest towns in the north, more than half the convicts in 1861, were sent to other prisons.

Mr. Burt might naturally have included Sheffield and Bradford, as West Riding towns, in the Wakefield 'convict district'; but our pamphlet expressly stated the fact that, as



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a general rule, West Riding convicts are sent to other convict prisons, and not to Wakefield.

So much for Mr. Burt's ingenious attempt to concentrate nine-elevenths of the great-town criminality among one-fifth of the convicts, at Wakefield. I was disposed to acquiesce in his theory, so far as to expect, that more relapses would be found among convicts from the great towns, than from other places. But it occurred to me to enquire into the actual state of the case at Wakefield, and I find this curious, and to me certainly unexpected, result. Among 1,314 convicts, being the whole number received into the convict department at Wakefield, during the seven years ending with 1862, from all the eleven great towns, 299, being 22·75 per cent., were known as returned convicts. Among 2,236, being the whole number received, during the same period, from all other places, 507, or 22·67 per cent., were known as returned convicts. The difference in the percentage of 'returns' between the two classes is a very small fraction, viz., ·08.

It is certain, therefore, that the rate of relapses at Wakefield which Mr. Burt would represent as 'exceptionally' high, is not materially augmented by the great towns, however correct his opinion may be, that, on general principles, it ought to have been so.

Nor are his presumptions better supported by the facts in detail. He dwells much on the 'frightful criminality' of Liverpool. I doubt not that it is great; but among 401 convicts received thence at Wakefield, 79, or 19·7 per cent., were known as returned convicts, which is less than the average from places other than great towns. If, therefore, Liverpool does produce, as he suggests, more than an average proportion of returned convicts, the larger part of them must have been sent to other convict prisons, to swell the proportion of returned convicts really existing, though, perhaps, not recognised as such, in those prisons.

From Birmingham, 22 out of 89 received, were known as returned convicts, being 24·7 per cent., which is above the general average; while only 8 out of 67 from Sheffield (which town, 'two professional thieves' told Mr. Burt, was a less favourite resort of their fraternity than Birmingham), were known as 'returns,' or 11·1 per cent.—much below the average.

The great towns make common cause with forsaken Birmingham, and utterly refuse to help Mr. Burt with a single reason, why the proportion of relapsed convicts at Wakefield, should be expected to be above the general average.

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But is there not in general, greater criminality in the north than in the south? The question is not new. It was laboriously investigated by Mr. Fletcher, one of H.M. Inspectors of Schools, and Secretary to the Statistical Society, to which his early death was a great loss. His 'Summary of Moral Statistics of England and Wales,' illustrated with an elaborate series of maps, fills a goodly octavo volume. A portion of his work, with several of the maps, was published in the Minutes of Council on Education for 1848-50, vol. ii. The maps are constructed so as to indicate to the eye, by lighter or darker shades, the better or worse state of the several counties, as to crime, and other moral conditions. Mr. Burt might have given very pretty illustrations of his theory, by reproducing those same maps and merely *inverting* the meaning of the shades, making the dark good, and the light bad. He might have pointed to the attenuated shades overspreading the northern counties, as expressing the 'concentrated criminality' which he finds there; and to the dark clouds of printers' ink gathering over central England, and settling into absolute blackness on the Metropolitan and West Midland Counties, as expressing the solid virtues of those favoured regions. For such is Mr. Fletcher's shading of his maps. He, from a very elaborate statistical examination, was brought to conclusions diametrically opposite to the theory which Mr. Burt is 'inclined to believe, upon information from criminals, and high police authority'—what, or of what nature, he does not tell us.

But, he may say, 'Mr. Fletcher's investigations date fifteen years back; things have changed.' No doubt there has been change, but has the relative state of crime in north and south, been absolutely inverted? I know of no more recent investigation of the question, so complete as Mr. Fletcher's, but we have information of a later date, very much to the purpose, from a source which Mr. Burt will not dispute. In Colonel Jebb's Report for 1857, he gave a statement showing the 'number and proportion of ticket-of-leave men released in different counties, from 1st October 1853, to 31st Dec. 1857.' It shows the average proportion for England and Wales, to be 36 (misprinted 360) per 100,000 of population. It shows that none of the northern counties had received above the average proportion of these men, except Lancashire, which had 45 per 100,000; Cumberland had 9, the lowest of all; Westmoreland, 14; Durham, 15; Yorkshire, 28; and Northumberland, just the average, 36. The highest proportion was in counties none of which can be called northern, viz., Somerset, 78; Middlesex, 76; Berkshire,

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51;—unless Mr. Burt will insist on throwing Warwickshire, which had 68, into the northern category.

How—in the face of a statement like this, in one of those very Reports, the accuracy of which it is Mr. Burt's special mission to proclaim, showing how much fewer the northern counties had received, than the others, of those very men whose recommitments are in question—Mr. Burt could have the hardihood to propound his theory of a 'greater concentration of persistent criminality in the north,' it is difficult to conceive. If he had never seen it, the fault is not ours, for we referred to it.

But had he seen it? and was he aware of the facts proved by it, and by criminal statistics based on the census of 1841, on that of 1851, and on that of 1861, that the northern counties have had, and have, on the whole, less than an average proportion of criminals in general, and of ticket-of-leave men in particular? and did he prepare himself, in case somebody should take the trouble to look into the matter more particularly than he desired, by an ingenious precautionary insertion of the words 'concentration' and 'persistent?' Did he mean by them, only that, though northern criminals are comparatively few in number, they are more habitually criminal? If he meant this, it would have been honest to say so. Now, in the present state of our criminal statistics, it is impossible to obtain satisfactory evidence as to reconvictions of the same individuals throughout the kingdom, and thus to test *this* theory of Mr. Burt's (if such his theory be), because, as Mr. Redgrave pointed out, the means of identification are so imperfect.

But how far is a theory, that northern criminality is confined to fewer individuals, but is more habitual in character, consistent either with likelihood, or with Mr. Burt's own axioms? He lays down, in another part of his pamphlet, a principle, in the soundness of which I have much pleasure in expressing entire agreement,—that 'the great producing cause of a succession of habitual criminals, is the criminal classes previously existing.' If existing criminals beget habitual crime, how should crime be more habitual in those places where there were fewer, than in those where there were more, of the 'criminal classes previously existing?' Previously to 1848, Mr. Fletcher showed much less general criminality in the north than in the south. Previously to 1858, Sir Joshua Jebb showed similar relative northern deficiency still existing in the number of that particular class of criminals whose tendency to relapse into crime, is in question. Clearly, then, Mr.

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Burt's principle must teach us to expect, since 1858, less of habitual criminality among ticket-of-leave men in the north, where fewer both of the criminal classes in general, and of that class in particular, are proved to have been previously existing.

If, then, Mr. Burt's theory be, that criminals are more numerous in the north, it is wholly contradicted by undeniable facts. If it be, that though fewer, their criminality is more habitual, it is contradicted by his own principles.

Yet this theory is the basis of his whole argument against 'Wakefield figures,' and of those multitudinous 'fallacies' in our reasoning upon them, which he professes to *detect*, but which, with one exception, are all his own *inventions*.

Mr. Burt, like a good general, throws the strength of his attack upon those figures as to reconvictions, which we gave as 'having no pretensions to be more than rough estimates founded upon such data as we possessed, in the absence of more accurate information.' We were able to append more accurate information, obtained just before our first edition was issued; but this Mr. Burt judiciously ignores. The further information obtained since, and referred to above (p. 14), shows that our *estimate* of the per centage of recommitments of discharged convicts, *was* erroneous, but in the opposite direction to that which Mr. Burt would have it. It was too low. We estimated the reconvictions from the convict prisons at from 40 to 45 per cent. The ascertained facts show, that taking, for the West Riding, the largest class of sentences of penal servitude, and those which, as being the shortest, should belong to the least criminal of those who received that punishment, 50 per cent. were *known* to have actually returned to prison up to March 1863, without any addition for undetected cases, or for discharged convicts living by crime, but not yet recommitted; while it is clear, on Mr. Burt's own principles, that, if the West Riding returns be 'exceptional,' it is, in that they are probably *below* the general average throughout the country.

Our estimate is superseded by ascertained facts, and might have been, and except for the sake of comparison, would have been omitted in our second edition. I shall not therefore follow Mr. Burt into all his invented fallacies; but I think it right to point out the one in which he has hit a real blot. We referred to 25 licensed convicts who had been committed to the West Riding department at Wakefield, as not included in the Directors' Return, which only gave those who were

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recommitted to *convict* prisons under revoked license, or fresh sentence. Mr. Burt points out, that, though these men were not brought into the Directors' Return by *that* particular sentence under which they came into the local prison, some of them might, subsequently, have received another sentence of penal servitude, and, under that, be included in the Directors' Return. In this he is correct, and I, readily, acknowledge that our calculation with respect to that class, was vitiated by our not having observed the possibility which he points out. But that class consisted chiefly of convicts from the West Riding. Now with respect to all those who since 1854 received from the West Riding sentences of penal servitude, all of which would expire before the end of 1862, we have positive proof that half the whole number discharged have returned to prison up to 1st April 1863. The erroneous part of our estimate is therefore specially superseded by direct proof.

I cannot find that Mr. Burt detects any other real fallacy, though he invents many, being chiefly reiterations, in one form or other, of his theory of excessive northern criminality.

To give one specimen of the kind of logic recently manufactured at Birmingham, I will take what he calls the 'fallacies of the second calculation' in our pamphlet. We gave as a reason for believing the official returns of resentenced licensed convicts to be incomplete, the facts that Wakefield receives one-fifth of all the men sentenced to penal servitude, and had received 323 *re*sentenced, which, multiplied by 5, would give more than 1,600 as the proportionate number of resentenced men for all the convict prisons; whereas, the report gives 1,038. Mr. Burt's logic thus exposes the fallacy of our estimate:—'The entire number of license holders resentenced to penal servitude for fresh offences is returned in the official reports as 1,038. If Wakefield had received only its fifth of these cases, the number would have been 116;* but Wakefield received 323. These returns, therefore, disclosed the fact, which it is not difficult to account for, that the proportion of reconvictions in the Wakefield convict district was greater than in the rest of the country.' That is—the question being, whether the official reports were complete, Mr. Burt assumes as his major premiss that they *are* complete, and then draws the irresistible conclusion that we

* I quote Mr. Burt's figures, in which there appears to be some mistake. One-fifth of 1,038 is about 207.

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were wrong in supposing them to be incomplete; and that we ought rather to have anticipated, in spite of well-known facts, that hypothesis of a 'greater proportion of reconvictions in the Wakefield convict district,' which he has laboured to suggest and 'account for' with such signal failure. It is seldom that the reasoner from a *petitio principii*, ventures to expose himself by limiting the gyration of his argument to so small a circle.

One other specimen of Mr. Burt's arithmetical manipulation may suffice. On the migration of Irish convicts to England he observes: 'There can be no question that the number of Irish convicts migrating to England largely affects the Irish returns (of reconvictions). The four Justices think to dispose of this element in the calculation by stating that among Wakefield prisoners they had only been able to trace two back to the Irish convict prisons. But the question is of the number *not* discovered. If there were only two more in eight years, and if the Justices had only applied to these four cases their own multiplier of 28 or 38, they would have obtained 112 or 152, as the number of Irish convicts, known and unknown, reconvicted in England.' When I first read this, I certainly thought that Mr. Burt had demonstrated the pea to be under a different thimble from that which I had backed. I rubbed my eyes and read again, when they caught the words, unmarked before, 'if there were only two more in eight years.' It really seems hypercritical to notice an assumption so modest. But on reflecting and recalling arithmetical lore, it appears, that where two were known, to add two more for the unknown, is to multiply by two. Now that 'question of the numbers *not* discovered,' (the *italics* are Mr. Burt's) is precisely that which had most vexed our minds with respect to the reconvictions of English convicts. Mr. Burt has solved it for us. To ascertain the 'number of convicts, known and unknown, reconvicted in England,' we have simply to multiply the number known, by two. Let us take, then, the English Directors' report that 20 per cent. of the licensed convicts have returned to the convict prisons, and apply Mr. Burt's own multiplier, and we get 40 per cent. Or, omitting the revoked licenses,—the completeness of the reports as to which we did not doubt till Sir Joshua Jebb and Scrutator indicated a defect in them,*—and applying Mr. Burt's multiplier to the 11 per

* Scrutator quotes Sir J. Jebb's paper read before the Social Science

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cent. known as resentenced to those prisons, and we get 22 per cent., while our estimate of that particular class was only 17·4 per cent.

Mr. Burt, in speaking of reconvictions of English convicts, would have us believe that the number '*not* discovered' is small indeed. He speaks, only two pages before, of an addition of 2 or 3 per cent. as 'too high' for the undetected cases among those resentenced to the *convict* prisons, though, 'perhaps, too low' if those who are recommitted to the local prisons be included. But when he comes to speak of Irish convicts recommitted to English prisons, he does not hesitate at once to add 100 per cent. for the undetected cases.

Marvellous are the metamorphoses wrought in percentages by his magic wand. We have seen how, by one wave, he made 10 per cent. of recommittals among *county prisoners* at Wakefield, above the average known in all prisons—and, indeed, a real deficiency—grow into an 'enormous excess of 50 per cent.;' and how, under a still mightier movement in the opposite direction, the increase in the proportion of *returned convicts* at Wakefield—which, by the same mode of computation as that he used in the former case, would have been 90 per cent.—shrunk to 6 per cent. Now, again, his most potent spell bids 2 or 3 per cent. of undetected cases among English convicts returned to prison, expand to 100 per cent. for Irish convicts. I know of nothing like it, except in early recollections from the Arabian Nights, where the Genie, alternately, as a *monstrum horrendum informe ingens*, strikes terror into the beholder, and is securely corked up in a portable bottle.

Such are some of Mr. Burt's methods of manipulating 'figures.' Let us now see how he deals with evidence as to 'facts.'

meeting in 1862, in which he states that he 'cannot call to mind more than *sixty instances* where it has been deemed advisable to exercise the power of revocation, unless a man had been fairly convicted of an offence against the law.' I heard that paper read, and I *believe* the statement then was, that he could not recall a *single instance*; but I did not make a note of it. Be that as it may, we were informed from the Home Office, last September, that 62 licenses had been revoked up to that date, without reconviction, in accordance with Sir J. Jebb's paper as printed. But in Sir J. Jebb's Return, both in the Report for 1862 and in the previous 'Memorandum' for 1860, *all* the convicts whose licenses are said to have been revoked, are classified as 'convicted of offences' of graver or lighter character. It would seem, therefore, that the 62 whose licenses were revoked without reconviction, are omitted.

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In the first edition of our pamphlet, we ventured some remarks on the Chatham mutiny, based chiefly on a return ordered by the House of Commons, in March 1861. In the autumn of 1862 appeared the official reports on the several convict prisons. The report on the Chatham prison touched tenderly on the subject of the mutiny. *About* the same time (I do not know the exact dates) a paper, read by Mr. Burt before the Social Science meeting in London, was published in the transactions of that Association, with the following note subjoined:—

'The *official report* of what took place during the disturbances at Chatham shows that the extent to which the convicts were implicated has been greatly exaggerated.'—*Transactions, &c.*, 1862, p. 391.

In a note to our second edition, we quoted the official report on the mutiny, and also statements published by Mr. Measor, an eye-witness of the occurrence, who, though he had resigned the office of deputy-governor of the prison shortly before the outbreak, volunteered and rendered, in that emergency, services for which he received the official thanks of the Directors. His statement, which has never been contradicted, was to the effect that a larger number of men were kept in chains, night and day, and put on punishment diet of bread and water, besides flogging and other punishments, than were stated in the official report to have been *punished* during the whole year, though 'some few more' were '*admonished*.' Mr. Burt thinks it 'obvious that a general stoppage of diet . . . may have been a merely precautionary measure for the safety of the prison.' I can well conceive a case in which a stoppage of diet might be an excellent 'precautionary measure for the safety' of a plethoric patient; but how it could be *merely* a precaution for the safety of a *prison*, and *not* a punishment to healthy prisoners, is less obvious to my limited capacity.

But the most notable point in Mr. Burt's treatment of the matter is this. 'I have not seen,' he writes in his present pamphlet (p. 69), 'the official report of the outbreak at Chatham;' and again, with marked emphasis, 'I have no official information whatever upon the matter.' Here is a curious question of personal identity. Can the Mr. Burt, who, in the autumn of 1862, appealed triumphantly to the official report in confutation of our exaggerated statements, be the same who, in February 1863, 'has not seen the official report,' and has 'no official information whatever upon the matter?' Yet

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there seems to be strong evidence of identity, for Part I. of the pamphlet of 1863 is almost a reproduction of the paper of 1862, though the note on the mutiny is omitted. Does, then, Mr. Burt—supposing but one Mr. Burt—possess the power, transcending our conceptions even of omnipotence, to make that which has been done, not done?—to have seen a thing at one time, and not to have seen the same thing at a subsequent time? or did he confidently charge us and others with exaggerated statements, founding that charge on an official report which he really had never seen; and professing to speak from official sources, on a matter on which he 'had no official information whatever?' Two things, however, seem clear amid the mystery, viz. first, that Mr. Burt, on further advice and mature consideration, deemed it most to the advantage of his case *not* to put his client in the box as a witness with respect to the Chatham mutiny; and secondly, the inference to be deduced as to his own opinion of the value of the evidence which, having once 'opened,' he *now* declines to call.

Such is Mr. Burt's mode of dealing with his own and Scrutator's 'English facts.' Into his 'Irish facts,' a delicately ironical variation on Scrutator's solemn 'Irish fallacies,' it is no part of my purpose to enter. For these, the twin pamphlets draw chiefly on Mr. Gibson, whose 'official information' seems to be much on a par with that which Mr. Burt first uses, and then disclaims. Both gentlemen seem endowed with a like faculty of forgetting what they had written a short time before. Mr. Gibson, it seems, published, in 1861, highly eulogistic remarks upon the same system of convict treatment, which he felt himself called upon to condemn in 1862, or very early in 1863; and clearly explained, in the former year, points which he professed himself wholly unable to comprehend in the latter. These 'Irish facts and fallacies' have been promptly dealt with by far more competent hands—those of Sir Walter Crofton and Captain Whitty.

One question, however, is raised both by Mr. Burt and Scrutator, to which I feel called upon to return, on behalf of the four Visiting Justices, an explicit answer, viz. why we questioned the returns given by the English Directors as to relapses of convicts, and did not question those given by the Irish Directors.

It is a trite observation, that, in weighing evidence, there are two points chiefly to be considered; first, the veracity of the witness, and, secondly, the means which he has had, of

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ascertaining the facts to which he speaks. Now, we did not for a moment question the veracity of the Directors on either side of the channel. But, when we come to look at their respective means of ascertaining the relapses among convicts discharged on licenses, we find a very great difference. The English Directors have laid it down as a fundamental principle with respect to these men, that 'the prospect or continuance of employment of the great majority only depends on their fellow-workmen and neighbours not knowing that they were ticket-of-leave men.* Now, that these men should obtain employment, is admitted on all hands to be most desirable. The English Directors, believing it to be essential to the attainment of that object that they should be unknown, do all they can to keep them unknown on their discharge. The Directors in Ireland believing it to be essential, for that as well as for other objects, to keep a strict control over them after discharge, require that each of them shall be seen personally, every month—in Dublin every fortnight—by the police, or an officer of the convict service, during the continuance of their license. This being so, whichever may be the right view, to suppose that the opportunities of knowing what becomes of these men after discharge, and what proportion of them relapse into crime, are at all equal in the two countries, would be utterly unreasonable.

Mr. Burt alleges that the supervision does not make much difference, because it only lasts during the 'length of time for which the licenses run, which is, perhaps, in a great majority of cases, not more than nine months.' Now, in the first place, Sir J. Jebb's figures, as well as those from Wakefield, show that the first year after discharge is precisely the time when relapses most frequently occur. But, further, is it reasonable to suppose that a man who has been constantly under supervision for nine months after discharge, is not more readily recognised as a former convict, in case of relapse after that period, than a man who has been kept purposely, and, as far as possible, unknown from the time of discharge? In the one case, a clue to identification is given, from which it is difficult for a man to break. In the other, no clue is given at all, and if obtained it is only got hold of by accident or irregular means. The two returns which we obtained from the police in the West Riding, strongly illustrate this difference.

* Report, Discipline of Convict Prisons, England, 1856, 1857, p. 102.

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In the first, when they were merely asked generally what they knew about any discharged convicts within their district, they could only give information as to 244 out of a number which Mr. Burt estimates (whether from 'official information' or not I do not know) at 600 or 700. That such a number may have come into the West Riding at one time or other is probable, though its existence there at one time may be doubtful. However, if his estimate were, or so far as it was, correct, 60 per cent., or some less, yet still large, proportion were unknown to the police.

For the second return, the police were furnished with the names, date of sentence, and previous residence, of each man. This being done, there were only 8·5 per cent. of whom they could not give some account.

Now, the former mode of asking for police returns, alone, is adopted in England, when they are asked for at all. The latter mode constitutes only a part of the measures taken in Ireland to ascertain what becomes of convicts discharged on license. In England the *Directors* do not ask for, but diligently eschew any returns from the police at all; nor take any measures by which the discharged convict, who subjects himself to another sentence, may be identified *before* he be sentenced. They trust entirely to the memory of officers in the convict prisons to identify the relapsed convict, not only *after sentence*, but *after admission* to some prison in which he has been before. The admission often does not take place till some months after sentence; and may be much longer. The Prison Matron's question raises great doubts whether even then, the returns of relapses, are kept 'posted up' to the *ex post facto* recognitions. To compare returns of relapsed convicts from England and from Ireland, is, therefore, to compare what is seen by 'eyes,' and by 'no eyes;' by those who look for things, and by those who do not.

One point more only, I must mention.

The four Wakefield Justices are charged in both pamphlets, with presumptuous rashness in that we ventured to say anything about convict treatment without having visited the Public Works' Prisons. Now, Mr. Burt has well described what we might expect to learn, and what not to learn, by visiting those or other prisons. 'An intelligent visitor,' he says, 'may observe as he walks through a prison whether the prisoners whom he sees look healthy; and whether the prisoners, when he sees them, answer to the discipline; but he cannot see the per-

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manent effect the discipline is producing upon their characters.' One thing more, I think, a practised eye may see, viz., whether the prisoners 'answer to the discipline' with an aspect of sullen and dogged submission, or of ready active obedience. But as to the 'permanent effect,' little indeed can be learnt by 'walking through a prison.' At Wakefield, however, we have had under our charge in less than ten years considerably more than a thousand persons, who have not only visited the Public Works' Prisons, but have been subjected to their discipline for years. These men have given, and are constantly giving us, more and more evidence of a 'permanent effect produced upon their characters,' of a kind which it is impossible to mistake. It is difficult to help forming some idea of a tree, though unseen, which produces such abundant crops of such fruit. Would it were otherwise; we should have been spared a most painful enquiry; which I, for one, entered upon with intense repugnance; and which I hoped that I had done with, till Mr. Burt threw down a gauntlet which it was impossible not to take up.

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I.

Mr. Burt's 'Table, showing the rate of the Commitments to the Population in the Principal Towns of England and Wales, and throughout the rest of the Kingdom, in 1861,'* and showing the West Riding, omitted by him.

| Place | Rate of Commitments to the Population |
|---|---|
| England and Wales . . . . . | 1 in 173 |
| Middlesex . . . . . | 1 „ 97 |
| Liverpool . . . . . | 1 „ 58 |
| Manchester . . . . . | 1 „ 98 |
| Birmingham . . . . . | 1 „ 161 |
| Leeds . . . . . | 1 „ 86 |
| England and Wales, when Middlesex, Liverpool, Manchester, Birmingham, and Leeds are deducted | 1 „ 210 |
| Middlesex, Liverpool, Manchester, Birmingham, and Leeds . . . . . | 1 „ 89 |
| West Riding, deducting Leeds . . . . | 1 „ 301 |

* Commitments for debt and under civil process are omitted.

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## II.

Mr. Burt's 'Table, showing the rate of the Reconvictions to the Population in the Principal Towns of England and Wales, and throughout the Kingdom generally, in 1861,' and showing the West Riding, omitted by him.

| Place | Rate of Reconvictions to the Population |
|---|---|
| England and Wales | 1 in 517 |
| Middlesex | 1 „ 252 |
| Liverpool | 1 „ 106 |
| Manchester | 1 „ 356 |
| Birmingham | 1 „ 453 |
| Leeds | 1 „ 182 |
| England and Wales, omitting Middlesex, Liverpool, Manchester, Birmingham, and Leeds | 1 „ 708 |
| Middlesex, Liverpool, Manchester, Birmingham, and Leeds | 1 „ 213 |
| West Riding, deducting Leeds | 1 „ 699 |

## III.

Table, showing the Number of Persons sentenced to Penal Servitude, in 1861, in the following Counties, &c., and the Number sent to the Wakefield Convict Prison, distinguishing the Number known to have been previously sentenced to Penal Servitude and those not so known.

| Number sentenced to P. S. in 1861 | County, &c. | Number received in Wakefield Convict Prison, 1861 | | |
|---|---|---|---|---|
| | | Returned Convicts | Not previously sentenced to P. S. or Transportation | Total |
| 544 | Lancashire | 76 | 173 | 249 |
| 175 | Yorkshire | 15 | 48 | 63 |
| 37 | Nottinghamshire | 6 | 20 | 26 |
| 31 | Lincolnshire | 3 | 11 | 14 |
| 39 | Worcestershire | 8 | 2 | 10 |
| 26 | Durham | 2 | 7 | 9 |
| 9 | Northamptonshire | ... | 9 | 9 |
| 12 | Northumberland | 3 | 5 | 8 |
| 5 | Westmoreland | 3 | 2 | 5 |
| 15 | Wiltshire | 1 | 3 | 4 |
| 62 | Devonshire | 1 | 2 | 3 |
| 17 | Cumberland | ... | 1 | 1 |
| 1 | Huntingdonshire | ... | 1 | 1 |
| 33 | Shropshire | ... | 1 | 1 |
| 77 | Wales | ... | 2 | 2 |
| Not known | Scotland | 41 | 68 | 109 |
| | | 159 | 355 | 514 |

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